

DANIEL G. BOGDEN  
United States Attorney  
ELIZABETH O. WHITE  
Appellate Chief and  
Assistant United States Attorney  
100 West Liberty, Suite 600  
Reno, Nevada 89501  
775-784-5438

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

-oOo-

UNITED STATES OF AMERICA, )  
Plaintiff, )  
v. )  
JOSE GUADALUPE ROJAS-GUZMAN, )  
Defendant. )

---

3:10-cr-109-RCJ-WGC

**JOINT STIPULATION FOR A SENTENCE REDUCTION  
PURSUANT TO 18 U.S.C. § 3582(c)(2)**

The United States of America, by Assistant United States Attorney Elizabeth O. White, and Defendant Jose Guadalupe Rojas-Guzman, by Assistant Federal Public Defender Nisha Brooks-Whittington, submit the following Joint Stipulation for Discretionary Relief pursuant to 18 U.S.C. § 3582(c)(2).

1                   The parties agree and stipulate to the following:

2           **A. Material Facts in Support of Joint Stipulation**

3                   Defendant was previously convicted and sentenced for offenses  
4                   involving controlled substances.

5                   On July 30, 2012, this Court sentenced Defendant to 264 months'  
6                   imprisonment for conspiracy to possess with intent to distribute and to  
7                   distribute a controlled substance in violation of 21 U.S.C. §§ 841(a)(1),  
8                   (b)(1)(A), and 846 (Count 1); distribution of a controlled substance in  
9                   violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A) (Count 2); and possession with  
10                  intent to distribute a controlled substance in violation of 21 U.S.C.  
11                  §§ 841(a)(1), (b)(1)(A) (Count 3). CR 185. This Court previously found: (a)  
12                  that Defendant's total offense level was 38; (2) that Defendant's criminal  
13                  history category was I; and (c) that the guidelines sentencing range was  
14                  240-293 months' imprisonment. This Court imposed sentence near the  
15                  middle of the advisory guidelines range.

16                  Following imposition of sentence, the U.S. Sentencing Commission  
17                  promulgated Amendment 782, which took effect on November 1, 2014.  
18                  Amendment 782 (a) reduces the guidelines offense levels across all drug

1 types, and (b) with certain limitations, applies retroactively to defendants  
2 sentenced prior to November 1, 2014.

3 Defendant seeks a discretionary reduction in sentence pursuant to  
4 Amendment 782, and in accordance with 18 U.S.C. § 3582(c)(2) which  
5 (among other things) provides that, in certain circumstances, a sentencing  
6 court “may reduce the term of imprisonment.”

7 **B. Terms of Sentence Reduction Under 18 U.S.C. § 3582(c)(2)**

8 Defendant is eligible for a discretionary reduction to the guideline  
9 imprisonment range, and the parties agree that a reduction is appropriate.  
10 Pursuant to 18 U.S.C. § 3582(c)(2) and Guidelines Amendment 782: (a)  
11 Defendant’s revised total offense level is 36; (b) Defendant’s criminal  
12 history category remains I; and (c), the revised advisory guidelines  
13 sentence, by virtue of the statutory mandatory minimum sentence, is 240  
14 months’ imprisonment. Based on the foregoing, the parties jointly  
15 recommend that Defendant’s sentence be reduced to 240 months’  
16 imprisonment, the guidelines sentence and the statutory minimum  
17 sentence for the offenses of conviction.

1       **C. Waivers; Review and Consent of Defendant**

2           Defendant knowingly and voluntarily waives any right to appeal any  
3           aspect of the revised sentence, *except that*, if the revised sentence exceeds  
4           the recommended term of 240 months, Defendant may appeal that aspect  
5           of the revised sentence. *See* Declaration, attached as Exhibit 1.

6           Defendant (a) waives any right he may have to a hearing on his  
7           motion under 18 U.S.C. § 3582(c)(2); (b) waives any right he may have to  
8           attend such a hearing; (c) has reviewed this stipulation with defense  
9           counsel; and (d) agrees with and consents to this stipulation. *See*  
10           Declaration, attached as Exhibit 1.

11       **D. Acknowledgment of Reserved Rights**

12           Notwithstanding this Joint Stipulation, the United States expressly  
13           preserves and does not waive its contentions that a defendant seeking  
14           relief under 18 U.S.C. § 3582(c)(2) has no constitutional or statutory right  
15           to counsel, to a hearing on the motion, or to be present at any hearing on  
16           the motion.

17       **E. Conclusion**

18           Based on the above, the parties respectfully request that the Court  
19           enter an order granting Defendant a sentence reduction pursuant to 18

1 U.S.C. § 3582(c)(2), and reducing his sentence to 240 months'  
2 imprisonment; with all other provisions of the amended judgment dated  
3 September 4, 2012, to remain in effect.<sup>1</sup>

4 Respectfully submitted this 22d day of January 2016.

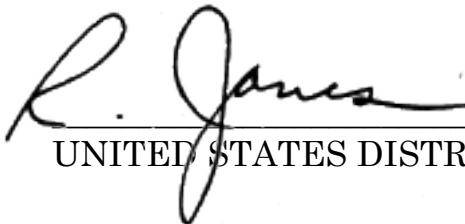
5  
6 RENE L. VALLADARES  
7 Federal Public Defender

8  
9 DANIEL G. BOGDEN  
10 United States Attorney

11 By: s/ Nisha Brooks-Whittington  
12 Nisha Brooks-Whittington  
13 Asst. Federal Public Defender  
14 *Counsel for Defendant*  
15 *Jose Guadalupe Rojas-Guzman*

16 By: s/ Elizabeth O. White  
17 Elizabeth O. White  
18 Appellate Chief and  
19 Assistant United States Attorney

20 IT IS SO ORDERED this 27th day of January, 2016.

21   
22 \_\_\_\_\_  
23 UNITED STATES DISTRICT JUDGE

---

<sup>1</sup> The parties make this joint recommendation after having reviewed the Defendant's progress reports from the Bureau of Prisons, along with other relevant records. If the Court is inclined to deny the jointly recommended sentence reduction, the parties respectfully requests an opportunity to provide those records for the Court's review, and make additional argument in support of the joint stipulation.

# Exhibit 1

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA  
-00-

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. ) 3:10-cr-109-RCJ-WGC  
 )  
 JOSE GUADALUPE ROJAS-GUZMAN, )  
 )  
 Defendant. )  
 \_\_\_\_\_

**DECLARATION IN SUPPORT OF**  
**JOINT STIPULATION UNDER 18 U.S.C. § 3582(c)(2)**

1. I, Jose Guadalupe Rojas-Guzman, am the Defendant in the above-captioned case and the movant seeking relief in a pending motion under 18 U.S.C. § 3582(c)(2).
2. I have read and discussed with my attorney, Nisha Brooks-Whittington, the "Joint Stipulation for a Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)" (the "Joint Stipulation") to be filed in this case.
3. I agree with and consent to the Joint Stipulation.
4. My attorney has explained my appellate rights to me. I hereby knowingly and voluntarily waive the right to appeal any aspect of the revised sentence imposed by the Court under the terms of the Joint Stipulation, *except that*, if the revised sentence exceeds the recommended term of 240 months' imprisonment, I may appeal that aspect of the revised sentence.
5. I hereby waive any right I may have to a hearing on my pending motion for discretionary relief under 18 U.S.C. § 3582(c)(2), or to attend such a hearing.

DATED this 24 day of December, 20121.

  
\_\_\_\_\_  
Jose Guadalupe Rojas-Guzman